

and officers to provide factual or expert testimony on any matters where NOAA has a significant interest in the litigation and the outcome may affect the implementation present or future policies, or where circumstances or conditions make it necessary to provide the information in the public interest.

(d) If the general counsel or designee authorizes the testimony of a NOAA officer or employee, then the Office of General Counsel may arrange for the taking of the testimony by methods that are less disruptive of the official activities of the officer or employee than providing testimony in court. Testimony may, for example, be provided by affidavits, answers to interrogatories, written depositions, or depositions transcribed, recorded, or preserved by any other method allowable by law. Costs of providing testimony, including transcripts, will be borne by the party requesting the testimony.

## **PART 911—THE UNITED STATES GEOSTATIONARY OPERATIONAL ENVIRONMENTAL SATELLITE (GOES) DATA COLLECTION SYS- TEM (DCS)**

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SOURCE: 46 FR 48635, Oct. 2, 1981, unless otherwise noted.

### **§ 911.1 General information.**

(a) The GOES Data Collection System (DCS) provides an effective method for obtaining environmental data from remote locations where conventional communications are either absent or inadequate. The use of the DCS is limited to the collection of environmental data in accordance with applicable International Telecommunication Union (ITU) regulations concerning use of the allocated frequency bands.

(b)(1) The DCS was established in 1974 to obtain from remote locations data

required for the effective accomplishment of programs of the National Oceanic and Atmospheric Administration. The DCS capacity can more than provide for all of NOAA's present and near future domestic and international requirements. This makes it possible to offer to Federal and State agencies or local governments of the United States, and to those private users and foreign government agencies whose use of the system would support a program of a United States agency, the opportunity to make use of the DCS. Policy guidelines are set forth below.

(2) For purposes of this part, *user* refers to a private or governmental organization, whether for-profit or not for-profit, that owns or operates environmental data collection platforms for the purpose of collection and transmission of environmental data through the GOES DCS and for which a Federal agency or State or local government has a requirement for or interest in obtaining the data.

(3) For purposes of this part, *Assistant Administrator* means the Assistant Administrator for Environmental Satellite, Data, and Information Services or his/her designee.

[46 FR 48635, Oct. 2, 1981, as amended at 51 FR 3466, Jan. 28, 1986]

### **§ 911.2 Use of the GOES DCS.**

(a) Use of the GOES DCS can be authorized only for the purpose of collecting environmental data. Environmental data as used here means observations and measurements of the physical, chemical or biological properties of the ocean, rivers, lakes, solid earth, and atmosphere (including space).

(b)(1) Except as provided in paragraph (b)(2) of this section, the GOES DCS is not to be used for data collection where adequate private common carrier communications exist to provide the service. (Adequate is defined in terms of capacity, speed and reliability with respect to the particular use envisioned.) A user must document, with a request for use of the GOES DCS, why private common carrier communications are not adequate.

(2) NOAA may authorize the use of the GOES DCS for environmental data collection critical to a federal program

where adequate common carrier communications exist when use of the common carrier would substantially increase the cost to the federal program of collecting these data.

(c) A user must identify the Federal agency or State or local government which will benefit from the proposed collection of data. NOAA will confirm with the identified sponsor that these data are required by it and that the sponsor is willing to share with the user any frequency channel resource allocated to it.

(d) User agencies and organizations will be admitted to system use with priority status as follows:

(1) NOAA users or users whose data are required for implementation of NOAA programs.

(2) Users whose data are desired to support NOAA programs.

(3) Users whose data and/or use of the GOES DCS will further a program of an agency or department of the United States Government.

(4) Users whose data are required by a State or local government of the United States. No other users will be admitted to system use.

(e) All users of the GOES DCS must use a data collection platform radio set whose technical characteristics conform to specifications established by NOAA. The message format must be as specified by NOAA.

(f) All users are responsible for all costs associated with the procurement and operation of the platforms, any confidential treatment of data under § 911.3, and for the acquisition of the data from those platforms either directly from the satellite or from the NOAA GOES Data Collection Center at the World Weather Building in Suitland, Maryland.

(g) Design characteristics of the environmental data collection system on the spacecraft require that users conform to technical standards established by NOAA. See § 911.5 of this part.

(h) NOAA will make every effort to maintain the GOES DCS in full operation at all times subject to the availability of appropriations. NOAA will bear no responsibility for any losses as

a result of the nonavailability of the DCS.

(Approved by the Office of Management and Budget under control number 0648-0157)

[46 FR 48635, Oct. 2, 1981, as amended at 51 FR 3466, Jan. 28, 1986]

### § 911.3 Treatment of data.

(a) All users of the GOES DCS must agree to permit NOAA and other agencies of the United States Government the free and open use of all data collected from their platforms, except as otherwise provided for in paragraphs (b) through (f) of this section, and to provide NOAA with the necessary information on data formats to facilitate such use.

(b) NOAA will consider a request from a user, who has otherwise met the criteria of § 911.2, for proprietary treatment by NOAA of all or a portion of the data collected from the platforms owned by the user. Each request for proprietary treatment must:

(1) Specifically identify the exact portion(s) of the data claimed to be confidential;

(2) State whether the data claimed to be confidential is commonly known within the user's industry or activity or is readily ascertainable by outside persons with a minimum of time and effort;

(3) State how release of the data would be likely to cause substantial harm to the user's competitive position;

(4) Identify the Federal agency or governmental program which would benefit by gaining access to the data to be collected;

(5) State whether the submitter is authorized to make claims of confidentiality on behalf of the person or organization concerned; and

(6) State when the confidential data may be made public.

(c)(1) NOAA may treat environmental data obtained by the GOES DCS as proprietary if the Assistant Administrator with the advice of the General Counsel and other interested Federal officers, finds that:

(i) The data are trade secrets or commercial information obtained from a user and privileged or confidential; and

(ii) Use of the GOES DCS for collection and proprietary treatment of such